

**UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JASON ALERS, et al.,</b>	:	<b>CIVIL NO. 1:22-CV-1357</b>
	:	
<b>Plaintiff,</b>	:	<b>(Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	<b>(Magistrate Judge Carlson)</b>
<b>PHEAA, et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**MEMORANDUM ORDER**

THE BACKGROUND OF THIS ORDER IS AS FOLLOWS:

This case has a curious procedural history, It was filed in the United States District Court for the Eastern District of Pennsylvania two and one half years ago, in April of 2020. (Doc. 1). In June and July of 2020 a series of motions to dismiss were filed in this case. (Docs. 56, 61, 65). These motions remained unaddressed by the district court in the Eastern District of Pennsylvania. After more than two years elapsed, on September 1, 2022, that court transferred this case to the United States District Court for the Middle District of Pennsylvania. (Docs. 54, 55). This court, Conner, J., then acted with alacrity, entering a case management order which, in pertinent part stated as follows: “The parties shall comply fully with Rule 26 and other provisions of the Federal Rules. *Counsel shall not cease active discovery pending disposition of a motion to dismiss.*” (Doc. 60)(emphasis added).

Notwithstanding this instruction, the case has been referred to the undersigned to address a discovery dispute between the parties embodied in correspondence between counsel. (Docs. 74, 76). The gist of this dispute is that the plaintiff seeks to initiate discovery, (Doc. 74), and the defendants seek to stay discovery pending a ruling on the outstanding motions. (Doc. 76).

Given the extensive delay which the parties have experienced thus far, and in light of the clear admonition by Judge Conner that “Counsel shall not cease active discovery pending disposition of a motion to dismiss,” (Doc. 60), the defendants’ letter request to stay discovery, (Doc. 76) is DENIED without prejudice to the defendants filing a motion with Judge Conner requesting that he reconsider the instructions in his September 1, 2022 case management order. Because we have addressed this matter based upon counsel’s correspondence, the telephone conference scheduled in this case for November 7, 2022 is CANCELLED.

So ordered this 28<sup>th</sup> day of October 2022.

S/ Martin C. Carlson  
Martin C. Carlson  
United States Magistrate Judge